

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of)	
)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act)	GN Docket No. 12-228

**REPLY COMMENTS OF THE FIBER-TO-THE-HOME COUNCIL
NINTH BROADBAND PROGRESS NOTICE OF INQUIRY**

The Fiber-to-the-Home Council (“FTTH Council” or “Council”),¹ through its undersigned counsel, hereby respectfully submits its reply comments to the Federal Communications Commission (“Commission”) in response to the Ninth Broadband Progress Notice of Inquiry (“Ninth NOI”).² In these reply comments, the FTTH Council addresses the

¹ The FTTH Council's mission is to accelerate deployment of all-fiber access networks by demonstrating how fiber-enabled applications and solutions create value for service providers and their customers, promote economic development and enhance quality of life. The FTTH Council's members represent all areas of the broadband access industry, including telecommunications, computing, networking, system integration, engineering, and content-provider companies, as well as traditional service providers, utilities, and municipalities. As of today, the FTTH Council has more than 200 entities as members. A complete list of FTTH Council members can be found on the organization's website: <http://www.ftthcouncil.org>.

² *See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as*

...Continued

comments of the parties regarding the appropriate fixed broadband speed threshold, which many parties recognize should be increased to reflect current and forward-looking broadband offerings and demand.

I. THERE IS RECOGNITION THAT THE COMMISSION’S GOAL SHOULD BE TO ENCOURAGE BROADBAND SERVICES THAT WILL CREATE A STRATEGIC BANDWIDTH ADVANTAGE AND ELIMINATE BANDWIDTH AS A CONSTRAINT ON INNOVATION AND PRODUCTIVITY

In a speech given by Chairman Genachowski to Vox Media shortly after comments were filed in this proceeding, the Chairman reiterated his goal to “ensure the U.S. has a strategic bandwidth advantage.”³ He recognized that Korea, China, the European Union and others “all have plans to deploy ultra-high-speed broadband on a wide scale to become a magnet for innovators and capital.”⁴ Similarly, the Writers Guild of America, West (“WGA”) noted that the U.S. is ranked 12th in average connection speed, but “[f]or the U.S. to remain globally competitive in the digital age, the developers of future innovative applications will need access to world-class networks.”⁵

Chairman Genachowski also recognized the need to eliminate broadband as a constraint on innovation and productivity, noting that American innovators have driven increases in demand for broadband and such consumer demand “spurs private investment in faster broadband

Amended by the Broadband Data Improvement Act, GN Docket No. 12-228, Ninth Broadband Progress Notice of Inquiry, FCC 12-91 (rel. Aug. 21, 2012).

³ Remarks of Chairman Julius Genachowski, “Winning the Global Bandwidth Race: Opportunities and Challenges for the U.S. Broadband Economy”, Vox Media Headquarters, Washington, DC (Sept. 25, 2012) (“Chairman Speech to Vox Media”).

⁴ *Id.* at 5.

⁵ Comments of the Writers Guild of America, West, Inc., GN Docket No. 12-228 at 3 (Sept. 20, 2012) (“WGA Comments”).

networks” and “spark[s] ever-more-useful innovation...”⁶ Although the Chairman correctly recognized the significant progress in broadband deployment over the last four years, more importantly, he stated that we “shouldn’t declare victory and slow down,” but rather we should “keep the pedal to the floor.”⁷ The FTTH Council unequivocally agrees and therefore has proposed that the Commission revise its broadband speed threshold to catch up to current average broadband speeds and be more forward-looking. Only by increasing our expectations for broadband speeds for all Americans can we hope to achieve a strategic bandwidth advantage and attract cutting edge businesses and jobs to our shores.

II. THE COMMENTERS RECOGNIZE THAT CURRENT AVERAGE BROADBAND SPEEDS GREATLY EXCEED THE EXISTING BENCHMARK AND THE COMMISSION SHOULD RAISE THE BENCHMARK TO “KEEP THE PEDAL TO THE FLOOR”

In its comments, the FTTH Council recognized the substantial and important investments that are being made by the private sector to deploy high-speed and ultra-high-speed broadband networks, including Google Fiber, Gig.U and Chatanooga’s Gig Tank, as well as public-private partnerships such as USIgnite.⁸ The FTTH Council also recognized the more widely available high-speed offerings of Verizon FiOS (300 Mbps download and 65 Mbps upload).⁹ In its comments, Comcast highlighted its new Xfinity Platinum Internet tier that is “offering subscribers in Northeastern markets speeds of up to 305 Mbps/65 Mbps.”¹⁰ Chairman Genachowski also recognized in his recent speech to Vox Media that “cable’s DOCSIS 3.0,

⁶ Chairman Speech to Vox Media at 5, 12.

⁷ *Id.* at 5, 13.

⁸ *See* Comments of the Fiber-to-the-Home Council, GN Docket No. 12-228 at 5-7 (Sept. 20, 2012) (“FTTH Council Comments”).

⁹ *Id.*

which offers speeds of 100 [Mbps] or faster...now passes more than 80% of U.S. homes” whereas only 20 percent of U.S. homes could receive such speeds at the beginning of 2009.¹¹

The FTTH Council demonstrated in its comments that these high-speed and ultra-high-speed broadband offerings are being driven by the demand for video, use of multiple connected devices and use of the cloud, which have caused average speeds to greatly exceed the current 4 Mbps / 1 Mbps broadband threshold.¹² According to the WGA, Nielsen has found that “time spent watching online video increased by 80 percent between 2008 and 2011.”¹³ The WGA referenced the Commission’s finding that “high-definition video can require speeds of 5-12 [Mbps],” but added the multiple device factor because “the requirements of an average American household with 2.6 occupants are even higher given the desire to watch multiple videos or use applications such as video conferencing at the same time.”¹⁴ Chairman Genachowski recognized in his recent speech that “[b]usinesses and consumers need high speeds to take advantage of services like cloud computing, which can make every smartphone, tablet, and laptop capable of harnessing the power of the world's latest supercomputers and capable of accessing the petabytes of vast data centers.”¹⁵

For these reasons and because, as the Chairman stated “we need to get faster sooner” and “keep the pedal to the floor,” several parties have advocated for an increase in the fixed broadband speed threshold. The California Public Utilities Commission noted that for purposes

¹⁰ Comments of Comcast Corporation, GN Docket No. 12-228 at 6 (Sept. 20, 2012).

¹¹ Chairman Speech to Vox Media at 2, 9.

¹² See FTTH Council Comments at 8-12.

¹³ WGA Comments at 3.

¹⁴ *Id.*

¹⁵ Chairman Speech to Vox Media at 6.

of its California Advanced Services Fund it “‘raised the bar’ and redefined ‘served’ to mean that the maximum advertised speed is greater than or equal to 6 Mbps down and greater than or equal to 1.5 Mbps up.”¹⁶ The National Association of Telecommunications Officers and Advisors advised that the Commission should revise the minimum threshold speed upward to 10 Mbps symmetric to “establish a definition for broadband that will support the applications available in the marketplace today, as well as rapidly emerging technologies and applications for teleworking, distance learning, and telemedicine.”¹⁷ Further, the WGA advocates for a higher benchmark, “such as 15 Mbps.”¹⁸

The FTTH Council appreciates that such increases in the fixed broadband threshold would better accommodate current applications and demand, however, in its 2012 Measuring Broadband America Report, the Commission found that actual average experienced speed increased by almost 38 percent since 2011 to 14.6 Mbps.¹⁹ Since there is no reason to think that such growth rates will slow in the foreseeable future, next year it is likely that average experienced download speeds will be 38 percent higher, or 20 Mbps. This speed threshold (i.e., 20 Mbps down and 5 Mbps up) will be more forward-looking and truly “keep the pedal to the floor.”

¹⁶ Comments of the California Public Utilities Commission, GN Docket No. 12-228 at 3 (Sept. 20, 2012).

¹⁷ Comments of the National Association of Telecommunications Officers and Advisors, GN Docket No. 12-228 at 5 (Sept. 20, 2012).

¹⁸ WGA Comments at 3.

¹⁹ See 2012 FCC Measuring Broadband America July Report at 6, available at <http://transition.fcc.gov/cgb/measuringbroadbandreport/2012/Measuring-Broadband-America.pdf> (“2012 Measuring Broadband America Report”).

III. THE COMMISSION SHOULD KEEP THE FIXED BROADBAND SPEED THRESHOLD UP-TO-DATE AND FORWARD-LOOKING SO THAT IT CAN FOCUS ON ADDRESSING ROADBLOCKS TO BROADBAND DEPLOYMENT

An important reason to set the fixed broadband speed threshold in a manner that reflects both current broadband demands as well as forward-looking demand is to continue to give the Commission flexibility to encourage faster broadband deployment through various proceedings. As stated in the FTTH Council comments, the Commission should provide proper incentives to rural telecommunications and broadband providers to deploy broadband at the same speeds as are available to Americans in urban and suburban areas.²⁰ This means both increasing the broadband performance obligations of these rural providers beyond the current 4/1 Mbps benchmark (i.e., setting the broadband benchmark developed in this proceeding as the new benchmark for CAF support) and giving them sufficient support to deploy networks capable of meeting future performance requirements. Further, the Commission should focus greater resources on ensuring reasonable, expeditious, and cost-based access to rights of way and poles, ducts, and conduits so that broadband providers have a workable business case to expand broadband coverage and upgrade current infrastructure.

Chairman Genachowski rightly recognized the Commission's actions to reform the Universal Service Fund, ease access to utility poles, speed processes for siting cell towers, and President Obama's "Dig Once" executive order, however, he also recognized the continuing need to "remove barriers to broadband buildout and lower the costs of infrastructure deployment."²¹ Although the National Cable & Telecommunications Association does not agree that the fixed broadband speed threshold should be increased at this time, it does agree that the

²⁰ See FTTH Council Comments at 14.

²¹ Chairman Speech to Vox Media at 3, 10.

Commission should continue to focus on “the genuine barriers to deployment that it has consistently identified, such as access to poles and rights-of-way and continued implementation of universal service reforms.”²² The Commission should continue to consider methods for improving access to non-federal rights of way through changes to state and local laws and regulations, as well as reasonable and cost-based access to private rights of way such as railroad track crossings. We are in the midst of rewiring America with fiber, and the Commission has an important role to play in removing barriers that thwart or slow progress.

IV. CONCLUSION

In conclusion, the FTTH Council urges the Commission to adopt the Council’s proposed definition of advanced telecommunications capability (i.e., 20 Mbps/5 Mbps), which reflects the current state of the market and is forward-looking. Such action would be consistent with the goals recently set forth by the Chairman and supported by several parties to this proceeding. The FTTH Council stands ready to assist the Commission as it evaluates the market for advanced telecommunications services and drafts the Ninth Report.

²² Comments of the National Cable & Telecommunications Association, GN Docket No. 12-228 at 6 (Sept. 20, 2012).

Respectfully submitted,



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